

December 10, 2019

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, D.C. 20510

Dear Leader McConnell and Leader Schumer:

We are writing to urge the United States Senate to amend its rules governing impeachment to require a sitting United States Senator actively seeking election to the Presidency of the United States to recuse himself or herself from the impeachment trial of President Donald J. Trump.

Article I, Section 3, Clause 6 of the United States Constitution requires Senators to swear an oath when sitting on a trial of impeachment. This oath, which is enshrined in our Constitution and laid out in Rule XXV of the Senate Rules in Impeachment Trials, requires Senators to, “do impartial justice according to the Constitution and laws: So help me God.”<sup>1</sup>

The Members of the United States Senate seeking election to the Presidency have called for President Trump’s impeachment for months, prior to the launch of any official impeachment inquiry. In fact, these Senators have already reached a verdict, dismissing the fundamental principle of our Democracy that Americans are innocent until proven guilty. As you can see, any claim of impartiality by the aforementioned senators would make a mockery of our democratic institutions.

As you know, during an impeachment trial of the President of the United States, the Constitution requires the Chief Justice of the United States Supreme Court to preside. Simply put, the Vice President is required to relinquish his position as President of the Senate due to a clear conflict of interest. Senators actively seeking election to the Presidency of the United States should be required to do the same given their vested interest in the reputation and political future of an incumbent President of the United States who is currently serving his first term in office. We believe the conflict of interest arising from this situation is far more profound than that of the Vice President.

Furthermore, the Supreme Court established in Nixon v. United States that the Constitution grants “the sole Power” to try impeachments “in the Senate and nowhere else”; and the word “try” “lacks sufficient precision to afford any judicially manageable standard of review of the Senate’s actions.”<sup>2</sup> In other words, the Senate has unilateral authority to establish the rules of its own proceedings in an impeachment trial, including by precluding members with a conflict of interest from participating.

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<sup>1</sup> Senate Resolution 439, 99<sup>th</sup> Cong. (1986)

<sup>2</sup> Nixon v. United States, 506 U.S. 224 (1993)

On December XX, 2019, we introduced H. Res. XXX, which urges the United States Senate to amend its Rules of Procedure and Practice When Sitting on Impeachment Trials to ensure a fair trial for President Trump. This resolution has the support of over XX Members of the United States House of Representatives.

We should all agree President Trump's right to due process and a fair impeachment trial is of the upmost importance. It is unfathomable that any Senator currently running for President could do impartial justice according to the Constitution and rules of impeachment.

As legislators, we all share the same commitment to protecting our Constitution and the democratic institutions it enshrined. Thus far, the politically motivated impeachment of President Donald J. Trump in the House of Representatives has been devoid of fairness and ripe with bias, and it threatens to shake the foundations of our democracy. We respectfully request the Senate ensure the trial does not become another opportunity for political grandstanding and attacks on our democracy.

Thank you for your attention to this important matter.

Sincerely,

Jason Smith  
Member of Congress

CC: Senator Michael Bennet, Senator Cory Booker, Senator Amy Klobuchar, Senator Bernie Sanders, Senator Elizabeth Warren